

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSEPH LOCHUCH EWALAN,

Plaintiff,

v.

ROBERT SCHREIBER, et al.,

Defendants.

CASE NO. C20-5678JLR

ORDER

Before the court are Defendants Robert Schreiber, Arlee Rothwell, Russell Dickerson, Kendra Wakefield, and Denny Larsen’s (“Defendants”) written exceptions to the court’s proposed preliminary and course of trial jury instructions.¹ (Resp. (Dkt. # 253).) Defendants raise only one exception, objecting to Preliminary Instruction No. 2, which presently states: “The plaintiff is incarcerated and asserts that each of the five

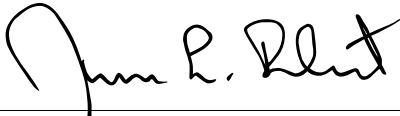
¹ *Pro se* Plaintiff Joseph Lochuch Ewalan did not file written exceptions to the preliminary or course of trial jury instructions. (*See generally* Dkt.; *see also* 4/11/24 Order (Dkt. # 246) at 2 (setting April 16, 2024 deadline to file exceptions).)

1 defendants violated his constitutional right to be free from cruel and unusual punishment
2 by failing to protect him from two separate assault incidents involving fellow inmates.”
3 (See 4/11/24 Order (Dkt. # 246) at App’x A (emphasis added).) Defendants propose the
4 following: “The plaintiff is incarcerated and asserts that each of the five defendants
5 violated his constitutional right to be free from cruel and unusual punishment by being
6 deliberately indifferent to a substantial risk of serious harm that plaintiff faced involving
7 fellow inmates.” (Resp. at 3.)

8 It is the court’s typical practice to issue a preliminary instruction that provides a
9 statement of the case expressed in colloquial terms rather than legal elements.

10 Nevertheless, the court will modify the instruction in this instance, as follows: “The
11 plaintiff is incarcerated and asserts that each of the five defendants violated his
12 constitutional right to be free from cruel and unusual punishment by being deliberately
13 indifferent to a substantial risk of serious harm, thereby failing to protect him from two
14 separate assault incidents involving fellow inmates.”

15 Dated this 18th day of April, 2024.

16 
17 JAMES L. ROBART
United States District Judge